

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO  Court Address: 1437 Bannock Street  Denver, Colorado 80202</p> <hr/> <p><b>CHARLES L. SISK, Public Administrator for 20<sup>th</sup> Judicial District, and/or STEPHANIE L. BRENNAN, Deputy Public Administrator for 20<sup>th</sup> Judicial District, as Conservator for R.Z.</b></p> <p>Plaintiff,</p> <p>v.</p> <p><b>ROCKY MOUNTAIN PLANNED PARENTHOOD, INC. d/b/a PLANNED PARENTHOOD OF THE ROCKY MOUNTAINS, INC., a Colorado non-profit corporation, and JANE DOES 1-4</b></p> <p>Defendants.</p>	<p>DATE FILED: December 22, 2014 5:32 PM  FILING ID: 10601FBBF0F22  CASE NUMBER: 2014CV31778</p> <p><b>▲ COURT USE ONLY ▲</b></p>
<p>ATTORNEYS FOR PLAINTIFF:</p> <p>Jodi S. Martin (#44658)  MARTIN LAW OFFICE LLC  1526 Spruce St., Ste. 102  Boulder, CO 80302  Tel: 303-928-2320 Fax: 303-928-2360  <a href="mailto:jodi@themartinlawoffice.com">jodi@themartinlawoffice.com</a></p> <p>Beth A. Klein (#17477)  Carrie Frank (#17807)  KLEIN   FRANK, P.C.  1909 26th Street, Ste. 1C  Boulder, CO 80302  Tel: 303-448-8884 Fax: 303-861-2449  <a href="mailto:carrie@kleinfrank.com">carrie@kleinfrank.com</a>  beth@kleinfrank.com</p>	<p><b>Case Number: 2014CV31778</b></p> <p><b>Courtroom: 376</b></p>
<p align="center"><b>THIRD AMENDED COMPLAINT AND JURY DEMAND</b></p>	

Plaintiff, R.Z., by and through Charles L. Sisk, Public Administrator for 20<sup>th</sup> Judicial District, and/or Stephanie L. Brennan, Deputy Public Administrator for 20<sup>th</sup> Judicial District, as Conservator, and by and through her attorneys, for her Third Amended Complaint against

Defendants Rocky Mountain Planned Parenthood Inc. d/b/a Planned Parenthood of the Rocky Mountains, Inc. and Jane Does 1-4, alleges as follows:

### **SUMMARY OF THE CASE**

1. This case seeks economic and non-economic damages arising from the Defendants' multiple failures to inquire about how a thirteen-year-old girl became pregnant, or what her relationship was to the adult man who brought her to Defendants for an abortion, despite numerous opportunities to speak to the girl alone; their failures to report known or suspected sexual abuse despite numerous indications that the man had sexually abused the girl; and administration of a long-term and undetectable form of birth control to the girl despite her fear of needles, all of which enabled the man to continue his years of sexual abuse of the girl without discovery or consequence.

### **PARTIES**

2. Plaintiff R.Z., a minor child, is a resident of the State of Colorado living with her mother in Adams County.

3. Charles L. Sisk, Public Administrator for 20<sup>th</sup> Judicial District, and/or Stephanie L. Brennan, Deputy Public Administrator for 20<sup>th</sup> Judicial District, ("Plaintiff") are the Court appointed Limited Conservator for Plaintiff R.Z. They were appointed by Court Order issued September 30, 2014. Plaintiff brings this action on behalf of the minor protected person, R.Z.

4. Defendant Rocky Mountain Planned Parenthood, Inc. d/b/a Planned Parenthood of the Rocky Mountains, Inc. ("Planned Parenthood") is a Colorado non-profit corporation with its principal office located at 7155 East 38th Avenue, Denver, Colorado 80207 in the City and County of Denver.

5. Defendants Jane Does 1-4 are administrative and professional employees of Planned Parenthood who interacted and communicated with R.Z. on May 3, 2012.

### **JURISDICTION AND VENUE**

6. Plaintiff hereby incorporates all allegations made elsewhere in the Third Amended Complaint, by reference.

7. Venue for this proceeding is proper in the City and County of Denver pursuant to C.R.C.P. Rule 98(c).

8. Jurisdiction is proper because R.Z. is a resident of the State of Colorado, Planned Parenthood is a Colorado non-profit corporation, with its principal place of business in the State of Colorado, and the events at issue occurred in the State of Colorado. Upon information and belief, Defendants Jane Does 1-4 are also residents of the State of Colorado.

## FACTUAL ALLEGATIONS

9. Plaintiff hereby incorporates all allegations made elsewhere in the Third Amended Complaint, by reference.

10. On May 3, 2012, R.Z. was thirteen (13) years of age and had been the victim of sexual abuse by her step-father, Timothy David Smith (“Smith”) for approximately seven (7) years.

11. During the many years of sexual abuse prior to May 3, 2012, Smith had also been verbally and physically abusive to R.Z., including threatening her life, as well as verbally and physically abusive to R.Z.’s mother in the presence of R.Z.

12. Approximately three weeks prior to May 3, 2012, R.Z. took a pregnancy test at the direction of Smith, due to concerns that she might be pregnant. The test indicated that R.Z. was pregnant.

13. A few days to a week before May 3, 2012, Smith pressured R.Z. to call Planned Parenthood to make an appointment for an abortion. The appointment for an abortion was scheduled for May 3, 2012 at Planned Parenthood’s 7155 East 38th Avenue, Denver, Colorado 80207, location.

14. On May 3, 2012, Smith transported R.Z. to Planned Parenthood’s facility located at 7155 East 38th Avenue, Denver, Colorado 80207 for her appointment and accompanied her inside the facility.

15. In connection with the abortion, Planned Parenthood required certain forms to be completed. Although R.Z. wrote her date of birth and signed some of the forms, the majority of the forms were completed by Smith, and R.Z. did not read them.

16. Smith indicated on the forms that he was R.Z.’s father. However, upon information and belief, Jane Does 1-4 heard R.Z. address Smith as “Tim,” not “Dad.”

17. R.Z. was briefly examined outside the presence of Smith and then returned to the waiting room where Smith was located. During the examination, none of Jane Does 1-4 spoke to R.Z. about sexual abuse, physical abuse, her relationship with Smith, or any other personal details that could have lead to a determination that R.Z.’s pregnancy was due to abuse.

18. During the appointment, Jane Does 1-4 spoke to R.Z. and Smith about prescribing birth control for R.Z. Smith directed R.Z. to accept birth control in the form of an injection so that R.Z.’s mother would not discover that R.Z. was on birth control. R.Z. initially refused, as she did not like shots; however, Smith directed R.Z. to agree to the injection. Some or all of Jane Does 1-4 were present for at least a portion of this conversation, but did not question R.Z. regarding the situation or potential sexual abuse.

19. Based upon the information provided by Smith and R.Z., Jane Does 1-4 learned that R.Z. was only thirteen (13) years of age and pregnant. Jane Does 1-4 also learned that R.Z. and Smith had different last names and R.Z. addressed Smith as “Tim,” not “Dad.” Jane Does 1-4 further learned that Smith was directing R.Z. to consent to a form of birth control that Minor Plaintiff was not comfortable receiving.

20. R.Z. was then taken to another room for the abortion procedure. At that time, Smith left the facility to eat lunch.

21. At no point immediately prior to, or during the procedure, did Jane Does 1-4 speak to R.Z. about sexual abuse, physical abuse, her relationship with Smith, or any other personal details that could have lead to a determination that R.Z.’s pregnancy was due to abuse.

22. After the abortion, R.Z. was released from the recovery room, but no adult was present to assist her. Instead, Jane Does 1-4 allowed R.Z. to leave Planned Parenthood’s facility unaccompanied, and R.Z. located Smith in his vehicle in the parking lot.

23. At no point during the appointment did Jane Does 1-4 verify Smith’s relationship to R.Z.

24. Neither Planned Parenthood nor Jane Does 1-4 ever contacted R.Z.’s mother.

25. Neither Planned Parenthood nor Jane Does 1-4 ever contacted law enforcement, child services, or any other agency to report any suspicion of child sexual abuse as is required under Colorado law, although they should have been alerted to the risk of abuse due to R.Z.’s age and Smith’s conduct.

26. As a direct and proximate result of Defendants’ failure to inquire about R.Z.’s suspicious circumstances and failure to report any knowledge or suspicion of the sexual abuse of R.Z., Smith was able to continue his sexual abuse of R.Z. on numerous occasions over the course of the next few months.

27. On July 18, 2012, while Smith was out of the home, R.Z. told her mother that Smith had been sexually abusing her. R.Z.’s mother then transported her to the hospital for examination and immediately reported the abuse. While at the hospital, R.Z.’s mother learned that R.Z. was on birth control, as prescribed and administered by Defendants.

28. R.Z.’s mother contacted Planned Parenthood to obtain medical records related to the birth control being provided to her daughter and learned that R.Z. had received an abortion at Planned Parenthood’s facility while accompanied by her abuser, Smith.

29. R.Z.’s mother was unaware of the ongoing sexual abuse until approximately July 18, 2012. R.Z.’s mother was unaware of the abortion until July 20, 2012.

30. Smith was subsequently arrested and charged with numerous felony counts related to the sexual abuse of R.Z. In late 2012, Smith pled guilty to two counts.

**FIRST CLAIM FOR RELIEF—RESPONDEAT SUPERIOR  
(Against Planned Parenthood)**

31. Plaintiff hereby incorporates all allegations made in the Third Amended Complaint, by reference.

32. Jane Does 1-4 were employees of Planned Parenthood on May 3, 2012.

33. Jane Does 1-4 were acting within the scope of their employment with Planned Parenthood when they interacted and communicated with R.Z. on May 3, 2012.

34. Planned Parenthood is a Colorado non-profit corporation that can only act through its employees. As such, any act or omission of an employee while acting within her employment is the act or omission of Planned Parenthood.

35. The acts and omissions of Jane Does 1-4, and therefore also of Planned Parenthood, on May 3, 2012 have caused R.Z. damages in an amount to be proven at trial, plus interests, costs and attorneys' fees.

**SECOND CLAIM FOR RELIEF—NEGLIGENCE  
(Against Planned Parenthood and Jane Does 1-4)**

36. Plaintiff hereby incorporates all allegations made in the Third Amended Complaint, by reference.

37. On May 3, 2012 Defendants had a duty to inquire of R.Z. sufficient to assess whether R.Z. was the victim of sexual abuse.

38. On May 3, 2012, Defendants had sufficient information available to them to provide knowledge or suspicion of sexual abuse of R.Z.

39. A reasonably careful physician or medical provider in Defendants' positions would have inquired of R.Z. to determine whether she was the subject of sexual abuse.

40. Defendants failed to sufficiently inquire of R.Z. to evaluate whether R.Z. was the victim of sexual abuse.

41. Defendants' failures to inquire of R.Z. were breaches of the duty owed by a reasonably prudent physician or medical provider to R.Z.

42. As a direct and proximate result of Defendants' breaches of their duties, R.Z.'s sexual abuse remained concealed and R.Z. was placed on birth control, all of which enabled

Smith to continue to sexually abuse R.Z. on numerous occasions for more than two additional months.

43. As a direct and proximate result of Defendants' breaches of their duties, R.Z. has sustained damages in an amount to be proven at trial, plus interest, costs and attorneys' fees.

**THIRD CLAIM FOR RELIEF—NEGLIGENCE *PER SE***  
**(Against Planned Parenthood and Jane Does 1-4)**

44. Plaintiff hereby incorporates all allegations made in the Third Amended Complaint, by reference.

45. On May 3, 2012, Defendants had a duty under C.R.S. § 19-3-304 to report known or suspected sexual abuse of minors.

46. On May 3, 2012, Defendants had sufficient information available to them to provide knowledge or suspicion of sexual abuse of R.Z.

47. Defendants failed to report known or suspected sexual abuse of R.Z.

48. On May 3, 2012, Defendants had a duty under C.R.S. § 12-37.5-104 to not perform an abortion on R.Z. until 48 hours after written notice of the pending abortion had been delivered to R.Z.'s mother at her home.

49. Defendants did not provide written notice to R.Z.'s mother of the pending abortion.

50. Defendants did not wait 48 hours to perform an abortion on R.Z.

51. As a direct and proximate result of Defendants' breaches of their duties, R.Z. has sustained damages in an amount to be proven at trial, plus interest, costs and attorneys' fees.

**FOURTH CLAIM FOR RELIEF—NEGLIGENT INFLICTION**  
**OF EMOTIONAL DISTRESS**  
**(Against Planned Parenthood and Jane Does 1-4)**

52. Plaintiff hereby incorporates all allegations made in the Third Amended Complaint, by reference.

53. Defendants were negligent in failing to sufficiently inquire of R.Z. to assess whether R.Z. was the victim of sexual abuse.

54. Defendants were negligent in failing to report known or suspected sexual abuse of R.Z.

55. Defendants' negligence created an unreasonable risk of physical harm to R.Z.

56. Defendants' negligence caused R.Z. to be put in fear for her own safety and such fear was shown by physical consequences or long continued emotional disturbance, rather than only momentary fright, shock, or other similar and immediate emotional distress.

57. As a direct and proximate result of Defendants' negligence, R.Z. has sustained damages in an amount to be proven at trial, plus interest, costs and attorneys' fees.

**FIFTH CLAIM FOR RELIEF—EXTREME AND OUTRAGEOUS CONDUCT  
(Against Planned Parenthood and Jane Does 1-4)**

58. Plaintiff hereby incorporates all allegations made in the Third Amended Complaint, by reference.

59. Defendants engaged in extreme and outrageous conduct.

60. Defendants did so recklessly or with the intent of causing R.Z. severe emotional distress.

61. Defendants' conduct caused R.Z. severe emotional distress.

62. As a direct and proximate result of Defendants' extreme and outrageous conduct, R.Z. has sustained damages in an amount to be proven at trial, plus interest, costs and attorneys' fees.

**AUXILIARY CLAIM FOR DAMAGES  
(Punitive Damages – Planned Parenthood)**

63. Plaintiff hereby incorporates all allegations made in the Third Amended Complaint, by reference

64. Defendant Planned Parenthood harmed and caused serious injuries and damages to the Plaintiff through their conduct purposefully committed which the Defendant either knew or must have realized was dangerous, done heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly the plaintiff.

65. In order to ensure that the public, especially minor children, are not placed in danger and to ensure that Defendant Planned Parenthood does not engage in conduct that disregards the rights and safety of others, Plaintiff requests an award of punitive damages.

**PRAYER FOR RELIEF**

Plaintiff, Charles L. Sisk, Public Administrator for 20<sup>th</sup> Judicial District, and/or Stephanie L. Brennan, Deputy Public Administrator for 20<sup>th</sup> Judicial District, as Conservator for R.Z., prays

for judgment upon all claims against the Defendants, and requests economic and non-economic damages for the pain and suffering and emotional distress R.Z. has suffered as a result of their negligent and reckless conduct, plus pre- and post-judgment interest as provided by law, attorneys' fees, costs and such other relief as the Court deems just and proper.

**JURY DEMAND**

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Dated this 22<sup>nd</sup> day of December, 2014

Respectfully submitted,

MARTIN LAW OFFICE LLC

*Original signature on file at Martin Law Office*

*/s/ Jodi S. Martin*

Jodi S. Martin

KLEIN | FRANK, P.C.

*Original signature on file at Klein | Frank, P.C.*

*/s/Carrie Frank*

Beth A. Klein

Carrie R. Frank

ATTORNEYS FOR PLAINTIFF

Plaintiff's Address

Charles L. Sisk & Stephanie L. Brennan  
Hurth, Sisk & Blakemore, LLP  
4860 Riverbend Rd.  
Boulder, CO 80301